

LAW OFFICES OF PAUL J. GIACOMO, JR.
Attorneys for Plaintiffs Larry Gribler and Three Amigos SJL, Inc.
405 Lexington Avenue, 37th Floor
New York, New York 10174
(212) 486-0200

Paul J. Giacomo, Jr., Esq. (PG8774)

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
LARRY GRIBLER, suing both individually and
as controlling shareholder of THREE AMIGOS SJL,
INC. d/b/a CHEETAHS GENTLEMEN'S CLUB,

07 Civ. 11436 (nrb)

Plaintiff,

-against-

SHIRELL WEISBLAT, aka SHRIELL
WEISBLAT, CHARLES WEISBLAT,
CHARLIE CASANOVA, INC.,
SELIM ZHERKA, STEVE ASLAND,
and MEHLER & BUSCEMI,

**NOTICE OF
MOTION**

Defendants.

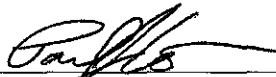
-----X
PLEASE TAKE NOTICE, that upon the annexed affirmation of Paul J. Giacomo, Jr.,
Esq., dated January 22, 2008, and the Exhibits annexed thereto, Plaintiffs will move at the United
States Courthouse located at a time and a place to be determined or as soon thereafter as counsel
can be heard, for an Order remanding the above entitled action to the Supreme Court of the State
of New York, County of New York, and granting such other and further relief as this Court may
deem just and proper

PLEASE TAKE FURTHER NOTICE, that pursuant to FRCP Rule 6(d), answering
affidavits shall be served at least one (1) day before the time at which the motion is noticed to be
heard. If service is made under FRCP Rule 5(b)(2)(B), (C), or (D), 3 days are to be added to this

period.

Dated: New York, New York
January 22, 2008

Respectfully submitted,



By: Paul J. Giacomo, Jr. (PG8774)
Law Offices of Paul J. Giacomo, Jr.
Attorneys for Plaintiff
405 Lexington Avenue, 37th Floor
New York, New York 10174
(212) 486-0200

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
LARRY GRIBLER, suing both individually and
as controlling shareholder of THREE AMIGOS SJL,
INC. d/b/a CHEETAHS GENTLEMEN'S CLUB,

07 Civ. 11436 (nrb)

Plaintiff,

-against-

SHIRELL WEISBLAT, aka SHRIELL
WEISBLAT, CHARLES WEISBLAT,
CHARLIE CASANOVA, INC.,
SELIM ZHERKA, STEVE ASLAND,
and MEHLER & BUSCEMI,

AFFIRMATION OF
PAUL J. GIACOMO, JR.

Defendants.

-----X
PAUL J. GIACOMO, JR., ESQ., an attorney duly admitted to practice law before the
Courts of the State of New York, affirms the following under the penalties of perjury:

1. I am the principal of the Law Offices of Paul J. Giacomo, Jr., attorneys for
Plaintiffs LARRY GRIBLER and THREE AMIGOS SJL, INC. in the above-captioned action,
and as such, I am fully familiar with the facts and circumstances surrounding this matter.

2. Plaintiff LARRY GRIBLER is an individual residing at 12 Green Farms Road,
Andover, New Jersey, is the sole shareholder of the Plaintiff THREE AMIGOS SJL INC., a
domestic business corporation duly organized and existing pursuant to the laws of the State of
New York, with its principal place of business located 252 West 43rd Street, New York, New
York 10036.

3. THREE AMIGOS SJL INC. (hereinafter sometimes the "Corporation") operates a
business known as the CHEETAHS GENTLEMENS CLUB & RESTAURANT at 252 West 43rd
Street, New York, New York 10036 (hereinafter referred to as "CHEETAHS").

4. Defendant SHIRELL WEISBLAT is an individual residing at 1385 York Avenue, Apt. 34G, New York, New York and she alleges to be a minority shareholder of THREE AMIGOS SJL INC.

5. Defendant CHARLES WEISBLAT is an individual residing at 1385 York Avenue, Apt. 34G, New York, New York., and is the husband of the Defendant SHIRELL WEISBLAT.

6. Upon information and belief, the Defendant CHARLES WEISBLAT is an officer, a director and shareholder of the Defendant corporation named CHARLIE CASANOVA, INC., a domestic business corporation duly organized and existing pursuant to the laws of the State of New York, with its principal place of business located at 222 Merrick Road, Rockville Centre, New York 11570. At all times herein relevant CHARLIE CASANOVA, INC. was the alter-ego of the Defendant CHARLES WEISBLAT.

7. Defendant SELIM ZHERKA is an individual residing at 250 North Avenue, New Rochelle, New York and he alleges to be a minority shareholder of THREE AMIGOS SJL INC. The Defendant SELIM ZHERKA claims to have obtained his interest in THREE AMIGOS SJL INC. by purchasing it from the Defendant SHIRELL WEISBLAT.

8. Defendant STEVE ASLAND is an individual residing at 2900 Milton Place, Bronx, New York 10465 who has worked as a manager at the cabaret club operated by of THREE AMIGOS SJL INC. known as the Cheetah's Gentlemen's Club.

9. Defendant MEHLER & BUSCEMI is a law firm with its principal office located at 305 Broadway, Suite 1102, New York, New York 10007.

10. This action was commenced in the Supreme Court of the State of New York, County of New York and issued an index number of 603794/2007 on November 15, 2007. The action was titled "LARRY GRIBLER, suing both individually and as controlling shareholder of

THREE AMIGOS SJL, INC. d/b/a CHEETAHS GENTLEMEN'S CLUB, v. SHIRELL WEISBLAT, aka SHRIELL WEISBLAT, CHARLES WEISBLAT d/b/a CHARLIE CASANOVA, INC. SELIM ZHERKA, STEVE ASLAND, and MEHLER & BUSCEMI.

11. Defendants Steve Asland and Mehler & Buscemi were served with a copy of the Summons and Complaint on December 3, 2007; Defendants Shirell Weisblat a/k/a Shriell Weisblat and Charles Weisblat were served on December 4, 2007; Defendant Charlie Casanova, Inc. was served pursuant to the Business Corporation Law on December 11, 2007. Defendant Selim Zherka, a/k/a Sam Zherka was served, after numerous attempts, on January 12, 2008. Annexed hereto as **Exhibit A** are the Affidavits of Service.

12. On December 20, 2007, some Defendants Shirell Weisblat a/k/a Shriell Weisblat, Charles Weisblat, Charlie Casanova, Inc., Selim Zherka a/k/a Sam Zherka, and Steve Asland filed their Notice of Removal. On December 26, 2007, the plaintiff's counsel received the Notice of Removal annexed without exhibits hereto as **Exhibit B**.

13. On December 17, 2007, Kristopher Dennis, of Kaufman Borgeest & Ryan LLP, contacted the Plaintiff's counsel representing Defendant Mehler & Buscemi. Mr. Dennis has subsequently been in contact with our office, including a request for an extension of time to answer the above-referenced Complaint that initiated this action.

14. Defendant Mehler & Buscemi has made no representation known to the Plaintiff, or even any reference cited by some Defendants Shirell Weisblat a/k/a Shriell Weisblat, Charles Weisblat, Charlie Casanova, Inc., Selim Zherka a/k/a Sam Zherka, and Steve Asland, that Defendant Mehler & Buscemi consents to the removal.

15. The procedural requirements for removal under 28 USC § 1446 are strictly enforced. These requirements include, *inter alia*, the unanimity requirement of joinder by all defendants. (See Memorandum of Law.)

16. Defendants Shirell Weisblat a/k/a Shriell Weisblat, Charles Weisblat, Charlie Casanova, Inc., Selim Zherka a/k/a Sam Zherka, and Steve Asland did not at any point indicate that Defendant Mehler & Buscemi joined in the removal action.

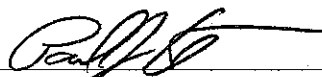
17. Some of the Defendants assert in their Notice of Removal that there is complete diversity between Plaintiffs and Defendants. Yet Three Amigos SJL, Inc. is a New York corporation. Defendant Charlie Casaona, Inc. is, upon information and belief, a New York corporation. Defendants Charlie Weisblat, Shirell Weisblat, Selim Zherka, and Steve Asland, upon information and belief, all reside in New York State. Defendant Mehler & Buscemi, upon information and belief, maintains an office at 305 Broadway, New York, New York.

18. In a case with multiple plaintiffs and multiple defendants, the presence in the action of a single plaintiff from the same State as a single defendant deprives the district court of original diversity jurisdiction over the entire action. (See Memorandum of Law.) Clearly, complete diversity does not exist between Plaintiffs and Defendants.

WHEREFORE, the instant motion should be granted in its entirety and an Order should be entered (1) remanding the action to the Supreme Court of New York, County of New York pursuant to the United States Code (U.S.C.) § 1447, and; (2) and for such other and further relief as this Court deems just and proper under the circumstances.

Dated: New York, New York
January 22, 2008

LAW OFFICES OF PAUL J. GIACOMO, JR.



By: Paul J. Giacomo, Jr. (PG8774)
Attorneys for Plaintiffs
The Chrysler Building
405 Lexington Avenue, 37th Floor
New York, New York 10174
(212) 486-0200

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
LARRY GRIBLER, suing both individually and
as controlling shareholder of THREE AMIGOS SJL,
INC. d/b/a CHEETAHS GENTLEMEN'S CLUB,

07 Civ. 11436 (nrb)

Plaintiff,

-against-

SHIRELL WEISBLAT, aka SHRIELL
WEISBLAT, CHARLES WEISBLAT,
CHARLIE CASANOVA, INC.,
SELIM ZHERKA, STEVE ASLAND,
and MEHLER & BUSCEMI,

Defendants.

-----X
**PLAINTIFFS LARRY GRIBLER'S AND THREE AMIGOS SJL, INC.'S
MEMORANDUM OF LAW IN SUPPORT OF MOTION
TO REMAND TO STATE COURT PURSUANT TO 28 USC § 1446**

PRELIMINARY STATEMENT

The within Memorandum of Law is submitted in support of the instant motion of Plaintiffs LARRY GRIBLER and THREE AMIGOS SJL, INC. seeking an order and/or judgment (1) remanding the action to the Supreme Court of New York, County of New York pursuant to the United States Code (U.S.C.) § 1447; and (2) and for such other and further relief as this Court deems just and proper under the circumstances.

STATEMENT OF FACTS

The facts underlying the instant application will not be restated herein, but rather, the Court is respectfully referred to the accompanying Affirmation of Paul J. Giacomo, Jr., Esq.

sworn to on January 18, 2008, and the Exhibits annexed thereto, for a full and complete recitation of the facts underlying this motion.

REQUIREMENTS OF 28 U.S.C. §§ 1441(a) AND 1446

1. 28 U.S.C. § 1446 provides, in pertinent part:

(a) A defendant or defendants desiring to remove any civil action or criminal prosecution from a State court shall file in the district court of the United States for the district and division within which such action is pending a notice of removal signed pursuant to Rule 11 of the Federal Rules of Civil Procedure and containing a short and plain statement of the grounds for removal, together with a copy of all process, pleadings, and orders served upon such defendant or defendants in such action.

(b) The notice of removal of a civil action or proceeding shall be filed within thirty days after the receipt by the defendant, through service or otherwise, of a copy of the initial pleading setting forth the claim for relief upon which such action or proceeding is based, or within thirty days after the service of summons upon the defendant if such initial pleading has then been filed in court and is not required to be served on the defendant, whichever period is shorter.

2. U.S.C. § 1447 provides, in pertinent part:

(c) A motion to remand the case on the basis of any defect other than lack of subject matter jurisdiction must be made within 30 days after the filing of the notice of removal under section 1446(a). If at any time before final judgment it appears that the district court lacks subject matter jurisdiction, the case shall be

remanded. An order remanding the case may require payment of just costs and any actual expenses, including attorney fees, incurred as a result of the removal. A certified copy of the order of remand shall be mailed by the clerk to the clerk of the State court. The State court may thereupon proceed with such case.

3. This Motion for Remand has been filed within thirty days of removal; all procedural and jurisdictional objections are timely.

LEGAL STANDARDS GOVERNING REMOVAL

A. The Court Must Satisfy Itself that Federal Subject Matter Jurisdiction is Proper or Remand the Action.

4. The district court must be certain that federal subject matter jurisdiction is proper and dismiss or remand cases not properly before it. See, e.g., *Marathon Oil Cp. v. Ruhrgas, A.G.*, 115 F.3d 315 (5th Cir. 1997) (remanding, concluding that “constitutional and statutory authority and the overwhelming body of precedent [command] all federal courts to scrutinize assiduously subject matter jurisdiction at each stage of litigation, trial and appellate, and to dismiss cases not properly before us”); *Bank of Tokya-Mitsubishi v. Kvaerner*, 243 A.D.2d 1 (1st Dept 1998).

5. If the district court at any time determines that it lacks jurisdiction over the removed action, it must remedy the improvident grant of removal by remanding the action to state court. 28 U.S.C. § 1447; see eg. *MARTIN v. FRANKLIN CAPITAL CORP.*, 546 U.S. 132 (U.S. 2005); regarding the right of removal: “A remand is necessary if a defendant improperly asserts this right,” *G & H PARTNERS AG v. WEXTRUST CAPITAL, LLC* (S.D.N.Y. 1-4-2008); *BELLO v. CSX CORPORATION* (S.D.N.Y. 9-11-2007). Because the existence of federal subject matter jurisdiction is a constitutional requirement, there is substantial case law to

the effect that the district court may remand a removed case in which the lack of subject matter jurisdiction is discovered at any time prior to the entry of judgment. 28 U.S.C. § 1447.

6. Although this motion is filed within thirty days to preserve procedural objections, any issues respecting jurisdictional infirmities remain open for consideration until entry of judgment.

B. The Burden of Establishing Removal Jurisdiction is On the Party Seeking Removal, *Not* the Party Seeking Remand to State Court.

7. It is also well-settled under the case law that the burden is on the party seeking to preserve the district court's removal jurisdiction (here some Defendants Shirell Weisblat, aka Shriell Weisblat, Charles Weisblat, Charlie Casanova, Inc. Selim Zherka, and Steve Asland), not the party moving for remand to state court (here, Plaintiffs), to show that the requirements for removal have been met. *Blockbuster, Inc. v. Galeno*, 472 F.3d 53 (2nd Cir. 2006) "An old proverb teaches that 'Heaven suits the back to the burden.' ... It is well-settled that the party asserting federal jurisdiction bears the burden of establishing jurisdiction." *See also*, *Hughes v. La Salle Bank*, 06-3778-cv (2nd Cir. 11-19-2007) *Pinson v. Knoll, Inc.*, (S.D.N.Y. 6-18-2007) "A removing party must establish that the federal courts have jurisdiction "to a reasonable probability." The removal statute is strictly construed against removal and the burden of establishing federal jurisdiction falls to the party invoking the statute.

8. When there is doubt as to the right to removal in the first instance, ambiguities are to be construed against removal. *Groman v. Cola* (S.D.N.Y. 11-7-2007); "As removal is a statutory and not constitutional prerogative, federal courts must narrowly construe removal jurisdiction in favor of the non-removing party to prevent intrusion on the sovereignty of state

courts to decide cases properly before them.” *See also*, Shamrock Oil Corp. v. Sheets, 313 U.S. 100, 107-09, (1941); Frontier Ins. Co. v. MTN Owner Trust, 111 F. Supp. 2d 376, 378 (S.D.N.Y. 2000).

SUMMARY OF GROUNDS FOR REMAND.

A. Procedural Grounds.

1. *Removal Requires Unanimity Among Defendants.*

9. The procedural requirements for removal under 28 USC § 1446 are strictly enforced. These requirements include, *inter alia*, the unanimity requirement of joinder by all defendants. This unanimity requirement is based on 28 U.S.C. § 1441(a) which provides that "the defendant or the defendants" may remove the case. The courts have read these words to mean that if there is more than one defendant, then the defendants must act collectively and unanimously to remove the case. In *Re Methyl Tertiary*, 488 F.3d 112 (2nd Cir. 2007); "removal on the basis of preemption or a substantial federal question— unlike removal under the federal officer or bankruptcy removal statutes — requires the consent of all defendants." *See also* *Chicago, Rock Island & Pac. R.R. Co. v. Martin*, 178 U.S. 245, 247-48, 20 S.Ct. 854, 44 L.Ed. 1055 (1900); 14C Charles Alan Wright, Arthur R. Miller, & Edward H. Cooper, *Federal Practice and Procedure* § 3731, at 258 (3d ed.1998).

10. The Notice of Removal by some Defendants Shirell Weisblat a/k/a Shriell Weisblat, Charles Weisblat, Charlie Casanova, Inc., Selim Zherka a/k/a Sam Zherka, and Steve Asland does not represent that Defendant Mehler & Buscemi consents to the removal.

11. Therefore, the Notice is flawed on its face and the action should be remanded.

B. Lack of Subject Matter Jurisdiction

1. The presence in the action of a single plaintiff from the same State as a single defendant deprives the district court of original diversity jurisdiction over the entire action.

12. Federal courts are courts of limited jurisdiction. They possess only that power authorized by Constitution and statute. District courts may not exercise jurisdiction absent a statutory basis. *EXXON MOBIL CORP. v. ALLAPATTAH SERVICES, INC.*, 545 U.S. 546 (2005) “Incomplete diversity destroys original jurisdiction with respect to all claims, leaving nothing to which supplemental claims can adhere,” *see also*, *KOKKONEN v. GUARDIAN LIFE INS. CO. OF AMER.*, 511 U.S. 375 (1994); *CATERPILLAR INC. v. LEWIS*, 519 U.S. 61 (1996).

13. But in a case with multiple plaintiffs and multiple defendants, the presence in the action of a single plaintiff from the same State as a single defendant deprives the district court of original diversity jurisdiction over the entire action. *EXXON MOBIL CORP. v. ALLAPATTAH SERVICES, INC.*, 545 U.S. 546 (2005).

14. Some of the Defendants assert in their Notice of Removal that there is complete diversity between Plaintiffs and Defendants. Yet Three Amigos SJL, Inc. is a New York corporation and, upon information and belief, all of the Defendants are considered citizens of the State of New York (See Affirmation of Paul J. Giacomo, Jr. dated January 18, 2008). In a case with multiple plaintiffs and multiple defendants, the presence in the action of a single plaintiff from the same State as a single defendant deprives the district court of original diversity jurisdiction over the entire action. Clearly, complete diversity does not exist between Plaintiffs and Defendants.

CONCLUSION

Based upon the foregoing, Plaintiffs respectfully request that this Court grant the instant motion in its entirety.

Dated: New York, New York
January 22, 2008

Respectfully submitted,

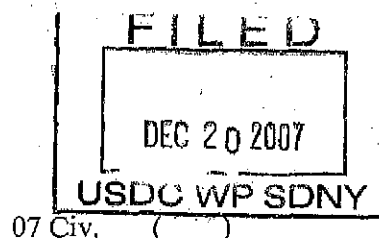


By: Paul J. Giacomo, Jr. (PG8774)
Law Offices of Paul J. Giacomo, Jr.
Attorneys for Plaintiff
405 Lexington Avenue, 37th Floor
New York, New York 10174
(212) 486-0200

Exhibit A

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
LARRY GRIBLER, suing both individually and as
controlling shareholder of THREE AMIGOS SJL, INC.,
d/b/a CHEETAS GENTLEMENS CLUB &
RESTAURANT,



Plaintiffs,

-against-

NOTICE OF REMOVAL

SHIRELL WEISBLAT a/k/a/ SHRIELL WEISBLAT,
CHARLES WEISBLAT, CHARLIE CASANOVA,
INC., SELIM ZHERKA a/k/a SAM ZHERKA,
STEVE ASLAND, and MEHLER & BUSCEMI,

'07 CIV 11436

JUDGE BUCHWALD

Defendants.
-----X

PLEASE TAKE NOTICE that pursuant to 28 U.S.C. §§1441(a) and 1446 this
civil action be and the same hereby is removed from Supreme Court of the State of New
York, County of New York, to the United States District Court for the Southern District
of New York on the basis of complete diversity of citizenship of the parties. Annexed
hereto is a copy of the summons, complaint, along with exhibits contained therein, which
have been served on Defendants Shirell Weisblat, Charles Weisblat, Charlie Casanova,
Inc., Selim Zherka, and Steve Asland.

Dated: White Plains, N.Y.
December 19, 2007

LOVETT & GOULD, LLP

By: 

Jonathan Lovett (4854)

Attorneys for Defendants Shirell Weisblat,
Charles Weisblat, Charlie Casanova, Inc.,
Selim Zherka, and Steve Asland.

222 Bloomingdale Road
New York, New York 10605
914-428-8401

LARRY GRIBLER, suing both individually and as controlling shareholder of THREE AMIGOS
SIL, INC., d/b/a CHEETAH GENTLEMENS CLUB and RESTAURANT,

Plaintiffs,

-against-

SHIRELL WEISBLAT a/k/a/ SHRIELL WEISBLAT, CHARLES WEISBLAT, CHARLIE
CASANOVA, INC., SELIM ZHERAK a/k/a SAM ZHERKA, STEVE ASLAND, and
MEHLER & BUSCEMI,

Defendants.

NOTICE OF REMOVAL

LOVETT & GOULD, LLP
Attorneys for Defendants Weisblat, Casanova, Zherka & Asland
222 BLOOMINGDALE ROAD
WHITE PLAINS, NEW YORK 10605
(914) 428-8401
FAX (914) 428-8916

To:

Attorney(s) for

Service of a copy of the within

is hereby admitted.

Dated:

Attorney(s) for

PLEASE TAKE NOTICE



NOTICE OF
ENTRY

that the within is a true copy of a
entered in the office of the clerk of the within named Court on

19



OF
SETTLEMENT

that an Order of which the within is a true copy will be presented for settlement to the Hon.
one of the judges of the within named Court, on 1998, at m.

NOTICE

Dated:

Attorneys for

LOVETT & GOULD, LLP

222 BLOOMINGDALE ROAD
WHITE PLAINS, NEW YORK 10605

To:

Attorney(s) for

Exhibit B

AFFIDAVIT OF SERVICE

STATE OF NEW YORK
COUNTY OF NEW YORK

SUPREME

COURT FILED ON: 11/15/2007

FILE NO.: 0710363
INDEX NO.: 603794-07LARRY GRIBLER, suing both individually and as controlling shareholder of the THREE
AMIGOS SJL INC. d/b/a CHEETAHS GENTLEMENS CLUB & RESTAURANT

Plaintiff(s)-Petitioner(s)

-VS-

SHIRELL WEISBLAT A/K/A SHRIEL WEISBLAT, CHARLES WEISBLAT, CHARLIE CASANOVA,
INC. SELIM ZHERKA A/K/A SAM ZHERKA, STEVE ASLAND, and MEHLER & BUSCEMI

Defendant(s)-Respondent(s)

STATE OF NEW YORK
COUNTY OF SCHENECTADY ss.}I, Mark E. McClosky being duly sworn, deposes and says that deponent is over the age of eighteen years, is
not a party in this proceeding and resides in New York State.On DECEMBER 11, 2007 at 11:55 A.M.
Deponent served two true copies of **SUMMONS, VERIFIED COMPLAINT**
bearing index number: 603794-07 and date of filing: 11/15/2007
upon **CHARLIE CASANOVA, INC.**
at address: **SECRETARY OF STATE, 41 STATE STREET**
City & State: **ALBANY, NY 12207**MANNER OF SERVICE:PERSONAL

- ☐
- By delivering to and leaving with personally
-
- known to the deponent to be the same person mentioned and described in the above proceeding as the person to be served.

SUITABLE AGE PERSON

- ☐
- By delivering and leaving with personally
-
- at the premises mentioned above. Such person knowing the person to be served and associated with him/her, and after
-
- conversing with him/her, deponent believes him/her to be a suitable age and discretion.

AUTHORIZED AGENT

- ☒
- By delivering and leaving 2 copies with
- DONNA CHRISTIE**
-
- the agent for service on the person in this proceeding designated under Rule 306 BCL and tendering the required fee.
-
- Service having been made to such person at the place, date and time above.

AFFIXING TO DOOR, ETC.

- ☐
- By affixing a true copy of each to the door of the actual place of business, dwelling place or usual place of abode stated above.
-
- Deponent was unable with due diligence to find the proper or authorized person to be served, or a person of suitable age and
-
- discretion at the actual place of business, dwelling place or usual place of abode stated above after having called there on the
-
- following dates and times:

MAILING

- ☐
- Deponent completed service by depositing a true copy of each in a postpaid, properly addressed envelope in an official depository
-
- under the exclusive care and custody of the United States Postal Service. The package was labeled "Personal & Confidential"
-
- and mailed to the person stated above at address
-
- on . The envelope did not indicate on the outside that the communication was from an attorney or concerned an action
-
- against the recipient. The envelope was mailed by
- first class mail
- certified mail
- registered mail
- return receipt requested
- .

Deponent further states upon information and belief that said person so served is not in the Military service
of the State of New York or the United States as the term is defined in either State or Federal statutes.DESCRIPTION: deponent describes the person actually served as:Sex: FEMALE Race/Skin Color: WHITE
Approximate Age: 47 years Approximate Height: 5'4"
Other:Hair Color: BLONDE
Approximate Weight: 140 pounds

NEW YORK

COUNTY CLERK'S OFFICE

Subscribed and sworn before me on} DECEMBER 11, 2007

Kathryn A. Rock #01R06065213
Notary Public, State of New York
Qualified in Schenectady County
Commission Expires: 10/09/2010Kathryn A. Rock-McClosky
Commissioner of Deeds
Qualified in Schenectady County
Commission Expires: 08/27/2004Attorney:
The Law Offices of Paul J.
Giacomo, Jr.
The Chrysler Building
405 Lexington Avenue, 37th Floor
New York, NY 10174Mark E. McClosky
Deponent

affidavit number: 200773262

FIRM FILE #9784538

STATE OF NEW YORK

NEW YORK COUNTY

SUPREME COURT

ATTORNEY(S): PAUL J. GIACOMO, JR., . . .

ADDRESS: 405 LEXINGTON AVENUE, NEW YORK, NY 10174 PH#: (212) 486-0200

LARRY GRIBLER, suing both individually and as controlling shareholder of THREE AMIGOS SJL INC. d/b/a CHALET
GENTLEMENS CLUB & RESTAURANT,

vs

Plaintiff(s)/Petitioner(s)

AFFIDAVIT OF SERVICE

INDEX #: 603794-07

FILED ON: November 15, 2007

SHIRELL WEISBLAT a/k/a SHRIELL WEISBLAT, CHARLES WEISBLAT, CHARLIE CASANOVA, INC., SELIM ZHERKA a/k/a SAM
ZHERKA, STEVE ASLAND, and MEHLER & BUSCEMI,

Defendant(s)/Respondent(s)

NEW YORK

County of SUFFOLK State of New York I, CLAUDE BROWN being duly sworn deposes and says:Deponent is not a party herein, is over 18 years of age and resides in the State of New YorkOn 12/4/2007 at 8:15PMat 1385 YORK AVENUE, APT. 34G, NEW YORK, NY 10021
deponent served the within SUMMONS AND VERIFIED COMPLAINTbearing Index # 603794-07 and filed on November 15, 2007ON: CHARLES WEISBLAT

INDIVIDUAL

☐

by delivering a true copy of each to said recipient personally; deponent knew the person served to be the person described as said person therein.

CORPORATION A

☐

by delivering thereof a true copy of each to personally, deponent knew said described as the named defendant and knew

SUITABLE AGE

PERSON

☒by delivering a true copy of each to "JOHN DOE"-CONCIERGE a person of suitable age and discretion
Said premises is recipient's ☐ actual place of business ☒ dwelling house (usual place of abode) within the state.
I asked the person spoken to whether the defendant actually resides/is employed at these premises and received an affirmative reply.

AFFIXING

TO

☐by affixing a true copy of each to the door of said premises, which is recipient's ☐ actual place of business
☐ dwelling house (usual place of abode) within the state. Deponent was unable, with due diligence to find recipient or a person of suitable age and discretion, having called thereat

Day _____ Date _____ Time _____ Day _____ Date _____ Time _____

Day _____ Date _____ Time _____ Day _____ Date _____ Time _____

Verification:

MAILING

COPY

☒Deponent's agent caused a copy of same to be enclosed in postpaid sealed wrapper properly addressed to recipient at the recipient's last known ☒ residence ☐ place of employment at: 1385 YORK AVENUE, APT. 34G, NEW YORK, NY
and caused said wrapper to be deposited in a post office official depository under exclusive care and custody of the U. S. Postal Service within the State of New York on 12/7/07☐ The mailing was made by certified mail (Receipt No. _____)☐ and with return receipt requested, and/ ☒ or First Class Mail, marked personal and confidential.

DESCRIPTION

☒

A description of the Defendant, or other person served, or spoken to on behalf of the Defendant is as follows:

Sex male Race/skin white Color of hair black Approx. Age 30-40 Approx. Height 5'9"-6'Approx. weight 170-200 Other refused to provide full name, would not allow access to apt

WITNESS FEES

☐

PHOTO

☐

MILITARY

SERVICE

☒

\$ _____ the authorizing traveling expenses and one day's witness fee was paid (tendered) to the recipient.

Deponent was able to identify recipient from annexed photo.

Deponent asked person spoken to whether the recipient was presently in or dependent upon someone currently in military service of the United States Government or in the State of New York and was informed he/she was not.

Sworn to before me on this

11th day of December, 2007James Anthony PassarelliJames Anthony Passarelli
Notary Public, State of New York
No. 01PA6061447
Qualified in Suffolk County
Commission Expires July 16, 2011

CLAUDE BROWN

0989767

Process Server's Lic #

NATIONWIDE PROCESS SERVICE
4250 Veterans Memorial Hwy, Suite 4000
Holbrook, NY 11741
631-951-4400

JP

Client Reference #: WEISBLAT

Invoice/WorkOrder # 9784540

STATE OF NEW YORK

NEW YORK COUNTY

SUPREME COURT

ATTORNEY(S): PAUL J. GIACOMO, JR., . . .

ADDRESS: 405 LEXINGTON AVENUE, NEW YORK, NY 10174 PH#: (212) 486-0200

COPY

LARRY GRIBLER, suing both individually and as controlling shareholder of THREE AMIGOS SJI, INC. d/b/a CHEETAHS GENTLEMENS CLUB & RESTAURANT,

1/3

Plaintiff(s)/Petitioner(s)

AFFIDAVIT OF SERVICE

INDEX #: 603794-07

FILED ON: November 15, 2007

SHIRELL WEISBLAT a/k/a SHRIELL WEISBLAT, CHARLES WEISBLAT, CHARLIE CASANOVA, INC., SELIM ZHERKA a/k/a SAM ZHERKA, STEVE ASLAND, and MEHLER & BUSCEMI,

Defendant(s)/Respondent(s)

NEW YORK

COUNTY CLERKS OFFICE

County of SUFFOLK, State of NEW YORK, I, CLAUDE BROWN, being duly sworn deposes and says:

Deponent is not a party herein, is over 18 years of age and resides in the State of NEW YORK

On 12/4/2007 at 5:15PM

at 1385 YORK AVENUE, APT. 34G, NEW YORK, NY 10021

deponent served the within SUMMONS AND VERIFIED COMPLAINT

bearing Index # 603794-07 and filed on November 15, 2007

ON: SHIRELL WEISBLAT aka SHRIELL WEISBLAT

NOT COMPARED
WITH COPY FILE

INDIVIDUAL

[]

by delivering a true copy of each to said recipient personally; deponent knew the person served to be the person described as said person therein.

CORPORATION A

[]

by delivering thereat a true copy of each to personally, deponent knew said described as the named defendant and knew

so served to be the said individual to be the authorized agent thereof.

SUITABLE AGE

PERSON

[X]

by delivering a true copy of each to "JOHN DOE"-CONCIERGE a person of suitable age and discretion Said premises is recipient's [] actual place of business [X] dwelling house (usual place of abode) within the state. I asked the person spoken to whether the defendant actually resides/is employed at these premises and received an affirmative reply.

AFFIXING

TO

[]

by affixing a true copy of each to the door of said premises, which is recipient's [] actual place of business [] dwelling house (usual place of abode) within the state. Deponent was unable, with due diligence to find recipient or a person of suitable age and discretion, having called thereat

Day Date Time Day Date Time

Day Date Time Day Date Time

Verification:

MAILING

COPY

[X]

Deponent's agent caused a copy of same to be enclosed in postpaid sealed wrapper properly addressed to recipient at the recipient's last known [X] residence [] place of employment at: 1385 YORK AVENUE, APT. 34G, NEW YORK, NY and caused said wrapper to be deposited in a post office official depository under exclusive care and custody of the U. S. Postal Service within the State of NEW YORK on 12/7/07

[] The mailing was made by certified mail (Receipt No. _____)

[] and with return receipt requested, and/ X or First Class Mail, marked personal and confidential.

DESCRIPTION

[X]

A description of the Defendant, or other person served, or spoken to on behalf of the Defendant is as follows:

Sex male Race/skin white Color of hair black Approx. Age 30-40 Approx. Height 5'8"-6'

Approx. weight 170-200 Other refused to provide full name, would not give address to GPO

WITNESS FEES

[]

\$ _____ the authorizing traveling expenses and one day's witness fee was paid (tendered) to the recipient.

PHOTO

[]

Deponent was able to identify recipient from annexed photo.

MILITARY

SERVICE

[X]

Deponent asked person spoken to whether the recipient was presently in or dependent upon someone currently in military service of the United States Government or in the State of NEW YORK and was informed he/she was not.

Sworn to before me on this

11th day of December, 2007

James Anthony Passarelli

James Anthony Passarelli
Notary Public, State of New York
No. 01PA606367
Qualified in Suffolk County
Commission Expires Aug. 16, 2011

CLAUDE BROWN

0989767

Process Server's Lic #

NATIONWIDE PROCESS SERVICE
4250 Veterans Memorial Hwy, Suite 4000
Holbrook, NY 11741
631-981-4400

JP

Client Reference #: WEISBLAT

Invoice/WorkOrder # 9784531

STATE OF NEW YORK

NEW YORK COUNTY

SUPREME COURT

ATTORNEY(S): PAUL J. GIACOMO, JR.,

ADDRESS: 405 LEXINGTON AVENUE, NEW YORK, NY 10174 PH#: (212) 486-0200

LARRY GRIBLER, suing both individually and as controlling shareholder of THREE AMIGOS SJL INC. d/b/a CHEETAHS GENTLEMEN'S CLUB & RESTAURANT,

AFFIDAVIT OF SERVICE

INDEX #: 603794-07

FILED ON: November 15, 2007

SHIRELL WEISBLAT a/k/a SHRIELL WEISBLAT, CHARLES WEISBLAT, CHARLIE CASANOVA, INC., SELIM ZHERKA a/k/a SAM ZHERKA, STEVE ASLAND, and MEHLER & BUSCEMI,

Plaintiff(s)/Petitioner(s)

Defendant(s)/Respondent(s)

County of SUFFOLK State of New York I, CLAUDE BROWN being duly sworn deposes and says:Deponent is not a party herein, is over 18 years of age and resides in the State of New YorkOn 12/3/2007 at 5:35PMat 2900 MILTON PLACE, BRONX, NY 10465deponent served the within SUMMONS AND VERIFIED COMPLAINTbearing Index # 603794-07 and filed on November 15, 2007ON: STEVE ASLAND

INDIVIDUAL

☐

by delivering a true copy of each to said recipient personally; deponent knew the person described as said person therein.

NOT COMPARED
WITH COPY FILE

CORPORATION A

☐

by delivering thereof a true copy of each to personally, deponent knew said

so served to be the said individual to be the authorized agent thereof.

SUITABLE AGE

PERSON

☒by delivering a true copy of each to ZOE ASLAND-CO TENANT a person of suitable age and discretion. Said premises is recipient's ☐ actual place of business ☒ dwelling house (usual place of abode) within the state. I asked the person spoken to whether the defendant actually resides/is employed at these premises and received an affirmative reply.

AFFIXING

TO

☐by affixing a true copy of each to the door of said premises, which is recipient's ☐ actual place of business ☐ dwelling house (usual place of abode) within the state. Deponent was unable, with due diligence to find recipient or a person of suitable age and discretion, having called thereat
Day _____ Date _____ Time _____ Day _____ Date _____ Time _____
Day _____ Date _____ Time _____ Day _____ Date _____ Time _____
Verification:

MAILING

COPY

☒Deponent's agent caused a copy of same to be enclosed in postpaid sealed wrapper properly addressed to recipient at the recipient's last known ☒ residence ☐ place of employment at: 2900 MILTON PLACE, BRONX, NY 10465 and caused said wrapper to be deposited in a post office official depository under exclusive care and custody of the U. S. Postal Service within the State of New York on 12/6/07
☐ The mailing was made by certified mail (Receipt No. _____)
☐ and with return receipt requested, and/ ☒ or First Class Mail, marked personal and confidential.

DESCRIPTION

☒A description of the Defendant, or other person served, or spoken to on behalf of the Defendant is as follows:
Sex female Race/skin white Color of hair blonde Approx. Age 80-85 Approx. Height 5'2"-5'6"
Approx. weight 150-160 Other mother

WITNESS FEES

☐

PHOTO

☐

MILITARY

SERVICE

☒

\$ _____ the authorizing traveling expenses and one day's witness fee was paid (tendered) to the recipient.

Deponent was able to identify recipient from annexed photo.

Deponent asked person spoken to whether the recipient was presently in or dependent upon someone currently in military service of the United States Government or in the State of New York and was informed he/she was not.

Sworn to before me on this

10th day of December, 2007James Anthony PascarelliJames Anthony Pascarelli
Notary Public, State of New York
No. 01PA6061647
Qualified in Suffolk County
Commission Expires July, 16, 2011

CLAUDE BROWN

0989767

Process Server's Lic #

NATIONWIDE PROCESS SERVICE
4250 Veterans Memorial Hwy. Suite 4000
Holbrook, NY 11741
631-981-4400

JP

Client Reference #: WEISBLAT

Invoice/WorkOrder # 9784532

STATE OF NEW YORK

NEW YORK COUNTY

SUPREME COURT

ATTORNEY(S): PAUL J. GIACOMO, JR.,

ADDRESS: 405 LEXINGTON AVENUE, NEW YORK, NY 10174 PH#: (212) 486-0200

COPY

LARRY GRIBLER, suing both individually and as controlling shareholder of THREE AMIGOS SJL INC. d/b/a CHEETAHS GENTLEMENS CLUB & RESTAURANT,

vs

Plaintiff(s)/Petitioner(s)

AFFIDAVIT OF SERVICE

INDEX #: 603794-07

FILED ON: November 15, 2007

SHIRELL WEISBLAT a/k/a SHRIELL WEISBLAT, CHARLES WEISBLAT, CHARLIE CASANOVA, INC., SELIM ZHERKA a/k/a SAM ZHERKA, STEVE ASLAND, and MEHLER & BUSCEMI,

Defendant(s)/Respondent(s)

NEW YORK

County of SUFFOLK, State of New York, I, LAURANCE KNOX, being duly sworn, deposes and says:Deponent is not a party herein, is over 18 years of age and resides in the State of New YorkOn 12/3/2007 at 2:00PMat 305 BROADWAY, SUITE 1102, NEW YORK, NY 10007deponent served the within SUMMONS AND VERIFIED COMPLAINT

DEC 12 2007

bearing Index # 603794-07 and filed on November 15, 2007ON: MEHLER & BUSCEMINOT COMPARED
WITH COPY FILE

INDIVIDUAL

[]

by delivering a true copy of each to said recipient personally; deponent knew the person served to be the person described as said person therein.

CORPORATION A Legal Agency

[x]

MARTIN P. MEHLER-AUTHORIZED AGENT

, by delivering thereat a true copy of each to

personally, deponent knew said Legal Agencyso served to be the Legal Agency

described as the named defendant and knew

said individual to be the authorized agent thereof.

SUITABLE AGE

PERSON

[]

by delivering a true copy of each to

a person of suitable age and discretion

Said premises is recipient's [] actual place of business [] dwelling house (usual place of abode) within the state.

I asked the person spoken to whether the defendant actually resides/is employed at these premises and received an affirmative reply.

AFFIXING

TO

[]

by affixing a true copy of each to the door of said premises, which is recipient's [] actual place of business

[] dwelling house (usual place of abode) within the state. Deponent was unable, with due diligence to find recipient

or a person of suitable age and discretion, having called thereat

Day _____ Date _____ Time _____ Day _____ Date _____ Time _____

Day _____ Date _____ Time _____ Day _____ Date _____ Time _____

Verification:

MAILING

COPY

[]

Deponent's agent caused a copy of same to be enclosed in postpaid sealed wrapper properly addressed to recipient at the recipient's last known [] residence [] place of employment at: 305 BROADWAY, SUITE 1102, NEW YORK, NY and caused said wrapper to be deposited in a post office official depository under exclusive care and custody of the U. S. Postal Service within the State of New York on _____

[] The mailing was made by certified mail (Receipt No. _____)

[] and with return receipt requested, and/ or First Class Mail, marked personal and confidential.

DESCRIPTION

[x]

A description of the Defendant, or other person served, or spoken to on behalf of the Defendant is as follows:

Sex male Race/skin white Color of hair blk/gray Approx. Age 45-50 Approx. Height 6'-6"Approx. weight 240-250 Other was wearing eyeglasses

WITNESS FEES

[]

\$ _____ the authorizing traveling expenses and one day's witness fee was paid (tendered) to the recipient.

PHOTO

[]

Deponent was able to identify recipient from annexed photo.

MILITARY

SERVICE

[]

Deponent asked person spoken to whether the recipient was presently in or dependent upon someone currently in

military service of the United States Government or in the State of New York and was informed he/she was not.

Sworn to before me on this

10th day of December, 2007James Anthony PassarelliJames Anthony Passarelli
Notary Public, State of New York
No. 01PA6061647
Qualified in Suffolk County
Commission Expires July, 16 2011

LAURANCE KNOX

1167432

Process Server's Lic #

NATIONWIDE PROCESS SERVICE
4250 Veterans Memorial Hwy, Suite 4000
Holbrook, NY 11741
631-981-4400

JP

Client Reference #: WEISBLATInvoice/WorkOrder # 9784535

STATE OF NEW YORK

NEW YORK COUNTY

SUPREME COURT

ATTORNEY(S): PAUL J. GIACOMO, JR.,

ADDRESS: 405 LEXINGTON AVENUE, NEW YORK, NY 10174 PH#: (212) 486-0200

LARRY GRIBLER, suing both individually and as controlling shareholder of THREE AMIGOS SJL INC. d/b/a CHEETAHS GENTLEMENS CLUB & RESTAURANT,

vs

Plaintiff(s)/Petitioner(s)

AFFIDAVIT OF SERVICE

INDEX #: 603794-07

FILED ON: November 15, 2007

SHIRELL WEISBLAT a/k/a SHRIELL WEISBLAT, CHARLES WEISBLAT, CHARLIE CASANOVA, INC., SELIM ZHERKA a/k/a SAM ZHERKA, STEVE ASLAND, and MEHLER & BUSCEMI,

Defendant(s)/Respondent(s)

County of SUFFOLK State of NEW YORK I, ROBERT MOORE being duly sworn deposes and says:Deponent is not a party herein, is over 18 years of age and resides in the State of NEW YORKOn 1/12/2008 at 3:50PMat 4 HAGEMAN COURT, KATONAH, NY 10536deponent served the within SUMMONS AND VERIFIED COMPLAINTbearing Index # 603794-07 and filed on November 15, 2007ON: SELIM ZHERKA A/K/A SAM ZHERKA

INDIVIDUAL

☒

by delivering a true copy of each to said recipient personally; deponent knew the person served to be the person described as said person therein.

CORPORATION A

☐

, by delivering thereof a true copy of each to

personally, deponent knew said

so served to be the

described as the named defendant and knew

said individual to be the authorized agent thereof.

SUITABLE AGE

PERSON

☐

by delivering a true copy of each to

a person of suitable age and discretion

Said premises is recipient's ☐ actual place of business ☐ dwelling house (usual place of abode) within the state.

I asked the person spoken to whether the defendant actually resides/is employed at these premises and received an affirmative reply.

AFFIXING

TO

☐by affixing a true copy of each to the door of said premises, which is recipient's ☐ actual place of business☐ dwelling house (usual place of abode) within the state. Deponent was unable, with due diligence to find recipient

or a person of suitable age and discretion, having called thereat

Day _____ Date _____ Time _____ Day _____ Date _____ Time _____

Day _____ Date _____ Time _____ Day _____ Date _____ Time _____

Verification:

MAILING

COPY

☐Deponent's agent caused a copy of same to be enclosed in postpaid sealed wrapper properly addressed to recipient at the recipient's last known ☐ residence ☐ place of employment at: 4 HAGEMAN COURT, KATONAH, NY 10536and caused said wrapper to be deposited in a post office official depository under exclusive care and custody of the U. S. Postal Service within the State of NEW YORK on _____☐ The mailing was made by certified mail (Receipt No. _____)☐ and with return receipt requested, and/ or First Class Mail, marked personal and confidential.

DESCRIPTION

☒

A description of the Defendant, or other person served, or spoken to on behalf of the Defendant is as follows:

Sex male Race/skin white Color of hair black Approx. Age 40-45 Approx. Height 6'-6"3"Approx. weight 200-210 Other _____

WITNESS FEES

☐

PHOTO

☐

MILITARY

SERVICE

☒

\$ _____ the authorizing traveling expenses and one day's witness fee was paid (tendered) to the recipient.

Deponent was able to identify recipient from annexed photo.

Deponent asked person spoken to whether the recipient was presently in or dependent upon someone currently in

military service of the United States Government or in the State of NEW YORK and was informed he/she was not.

Sworn to before me on this

14th day of January 2008
James Anthony PassarelliJames Anthony Passarelli
Notary Public, State of New York
No. 01PA0661647
Qualified in Suffolk County
Commission Expires July 16, 2011

ROBERT MOORE

1066544

Process Server's Lic #

NATIONWIDE PROCESS SERVICE
4250 Veterans Memorial Hwy, Suite 4000
Holbrook, NY 11741
631-981-4400

JP

Client Reference #: WEISBLAT

Invoice/WorkOrder # 9784533